

REMARKS

Claim 1 has been amended to specify that the magazine comprises a number of storage chutes, each chute having generally rectangular reaction cuvettes stacked one atop another therein.

Claim Rejections –35 USC §103

Claims 3-10 are rejected under 35 USC 103(a) as being unpatentable over Link (US 6,098,819) in view of US Patent 6,321,609 to Mengel et al. As noted in previous communications, the Examiner states that it would have been obvious to use Mengel's curved walls where the stored cuvettes are roundly-shaped so that the cuvettes have a better fit in the magazine. The Examiner notes that MPEP 2144 states that rational different than Applicant's is permissible. MPEP 2144 however further emphasizes that "obviousness cannot be established without also providing evidence of the motivating force which would impel one skilled in the art to do what the patent applicant has done."

Mengel uses curved walls to store curved cuvettes; this is not a motivating force to use curved walls to store rectangular cuvettes. This motivating force which would impel one skilled in the art to use a rectangular magazine for a better fit for rectangular cuvettes. Neither is there a reasonable basis for expecting that curved walls are a logical fit for rectangular cuvettes. Since Mengel teaches the use of curved walls, inherently teaching against the use of rectangular walls, it would be illogical to employ Mengel's curved walls to house rectangular cuvettes. To make this distinction more clear, however, Applicant has amended claims 1 to require that the magazine chutes have generally rectangular reaction cuvettes stacked one atop another therein. Applicant thus believes that a rejection of his now-

claimed invention over the combination of Link and Mengel is unsupported and should be withdrawn.

Conclusion

Applicant believes that this application contains patentable subject matter and that the foregoing amendments provide a basis for favorable consideration and allowance of all claims; such allowance is respectfully requested. If any matter needs to be resolved before allowance, the Examiner is encouraged to call Applicant's representative at the number provided below.

Respectfully submitted,



Leland K. Jordan
Registration No. 36,560
Agent for Applicant

DADE BEHRING INC.
1717 Deerfield Road, Box 778
Deerfield, IL 60015-778
Phone: (610) 255-1441